

REMARKS

The specification is objected to for informalities. Claims 4 and 12 are objected to for informalities. Claims 8 and 9 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Claims 5-12 stand rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. Claims 1-12 stand provisionally rejected for obviousness-type double patenting over claims 1-15 of co-pending Application Number 10/730,971. Claims 1-12 stand rejected under 35 U.S.C. § 102(e) as anticipated by United States Patent Number 6,529,992 to Thomas et al. (hereinafter Thomas).

For the Examiner's convenience and reference, Applicants' remarks are presented in substantially the same order in which the corresponding issues were raised in the Office Action. Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references.

Applicants thank the Examiner for the telephone interview of September 10, 2007. We discussed a proposed amendment to the claims. There was no agreement as to whether the amendment would overcome Thomas. Applicants agreed to amend the claims with the proposed amendment and additional limitations, and do so with this response.

Response to objections to the disclosure.

The disclosure is objected to for informalities. Applicants have amended the disclosure

as suggested to cure the informalities.

Response to objections to claims.

Claims 4 and 12 are objected to for informalities. Applicants have amended claims 4 and 12 to correct the informalities.

Response to rejections of claims under 35 U.S.C. § 112, second paragraph.

Claims 8 and 9 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Applicants have amended claim 8 to be directed to a “program” and submit that as amended claims 8 is definite under 35 U.S.C. § 112, second paragraph. Claim 9 is canceled.

Response to rejections of claims under 35 U.S.C. § 101.

Claims 5-12 stand rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. Applicants have amended claims 5 and 10 with the limitation that the program is “...stored in a memory, executed by a CPU...” The amendment is fully supported by the specification. See page 7, ¶ 3; page 9, ¶ 2.

The Commissioner has stated "...that computer programs embodied in a tangible medium, such as floppy diskettes, are patentable subject matter under 35 U.S.C. § 101 and must be examined under 35 U.S.C. § 102 and 103." *In re Beauregard*, 53 F.3d 1583, 1584 (Fed. Cir. 1995). Because as amended claims 5 and 10 are directed to a program stored in memory and executed by a CPU, Applicants submit that claims 5 and 10 are statutory and that claims 7, 8, 11, and 12 are statutory as depending from statutory claims. Claims 6 and 9 are canceled.

Response to rejections for nonstatutory double patenting.

Claims 1-12 stand provisionally rejected for obviousness-type double patenting over claims 1-15 of co-pending Application Number 10/730,971. The Applicants have included a terminal disclaimer in response to the non-statutory obvious-type double patenting rejection of Claims 1-12.

Amendments to the Claims.

In addition to the amendments described above, Applicants have amended claim 1 with the limitations of claim 3. Claim 1 is further amended with the limitation that the data file is encrypted "...with a user passphrase..." and that "...the user inputs the user passphrase." The amendment is fully supported by the specification. See page 14, paragraph 3, lines 1-2; page 11, ¶ 1, lines 2-4. Applicants have also amended claim 1 with the limitation that the data file is "...encrypted with an algorithm selected from RC2, RC4, RC5, RC6, 3DES and AES encryption algorithms." The amendment is fully supported by the specification. See page 10, ¶ 3, lines 1-3; page 14, ¶ 3, lines 4-6. Claims 5 and 10 are amended with similar limitations.

Claims 3, 6, and 9 are canceled. Claims 4 and 7 are amended to conform to the other amendments.

Response to rejections of claims under 35 U.S.C. § 102.

Claims 1-12 stand rejected under 35 U.S.C. § 102(e) as anticipated by United States

Patent Number 6,529,992 to Thomas et al. (hereinafter Thomas). Applicants respectfully traverse this rejection.

Claim 1 is amended with the limitations of reading an encrypted data file from an external storage device, decrypting the data file, storing the data file on the external storage device, then in response to an ejection request reading and encrypting the data file with a user passphrase and storing the encrypted data file. The data file is encrypted with an algorithm selected from RC2, RC4, RC5, RC6, 3DES and AES encryption algorithms. Claims 5 and 10 are similarly amended

While Thomas does teach encrypting and decrypting a Task Disk Control File (TDCF) that is stored on removable media, Thomas does not teaching reading an encrypted data file from an external storage device, decrypting the data file, storing the data file on the external storage device, then in response to an ejection request reading and encrypting the data file with a user passphrase and storing the encrypted data file to the external storage device. Applicants therefore submit that claims 1, 5, and 10 are allowable as Thomas does not teach all of the limitations of claims 1, 5, and 10. Applicants further submit that claims 2, 4, 7-8, 10, and 11 are allowable as depending from allowable claims.

Conclusion

As a result of the presented remarks, Applicants assert that the application is in condition for prompt allowance. Should additional information be required regarding the traversal of the rejections of the claims enumerated above, Examiner is respectfully asked to notify Applicants of such need. If any impediments to the prompt allowance of the claims can be resolved by a telephone conversation, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,

/Brian C. Kunzler/

Brian C. Kunzler
Reg. No. 38,527
Attorney for Applicant

Date: September 11, 2007
8 East Broadwa, Suite 600
Salt Lake City, UT 84111
Telephone (801) 994-4646
Fax (801) 322-1054